

# EXHIBIT B

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

THE PROCTER & GAMBLE COMPANY	:	Case No. 1:08-CV-565
Plaintiff,	:	Hon. Thomas M. Rose
vs.	:	<b>DECLARATION OF ROBERT</b>
	:	<b>KELLERMAN</b>
RNA CORPORATION	:	
Defendant.	:	

I, Robert J. Kellerman, under penalty of perjury, state as follows:

1. I am employed by GK Packaging, Inc. ("GK") as its Chief Financial Officer. I have held this position since August of 2003, and served as outside accountant for GK for approximately 20 years prior. I have personal knowledge of the facts contained in this declaration. If called upon as a witness, I could competently testify to facts set forth in this declaration

2. GK is a manufacturer of plastic bottles and containers and holds multiple design patents issued by the United States Patent and Trademark Office (the "USPTO") on its bottle and container designs.

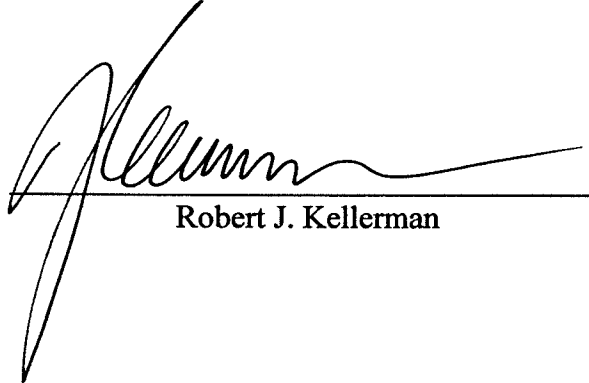
3. GK manufactures the bottles utilized by Family Dollar to package and sell its Hydrating Herbal Shampoo and Hydrating Herbal Conditioner (the "Family Dollar Bottle"). The Family Dollar Bottle is the same bottle at issue in the above captioned litigation, and is identified by The Procter & Gamble Company ("P&G") on page 6 and Exhibit G of its Complaint against RNA in this action. A copy of Exhibit G of P&G's Complaint depicting an image of the Family Dollar Bottle is attached hereto as Exhibit 1.

4. On August 24, 2006, GK applied for a design patent with the USPTO for the design of the Family Dollar Bottle.

5. On October 3, 2008, the USPTO mailed to GK notice that the USPTO completed its examination of the Family Dollar design patent application and found that under the law, GK is entitled to a U.S. design patent for the Family Dollar Bottle design. A copy of the Notice of Allowance is attached hereto as Exhibit 2.

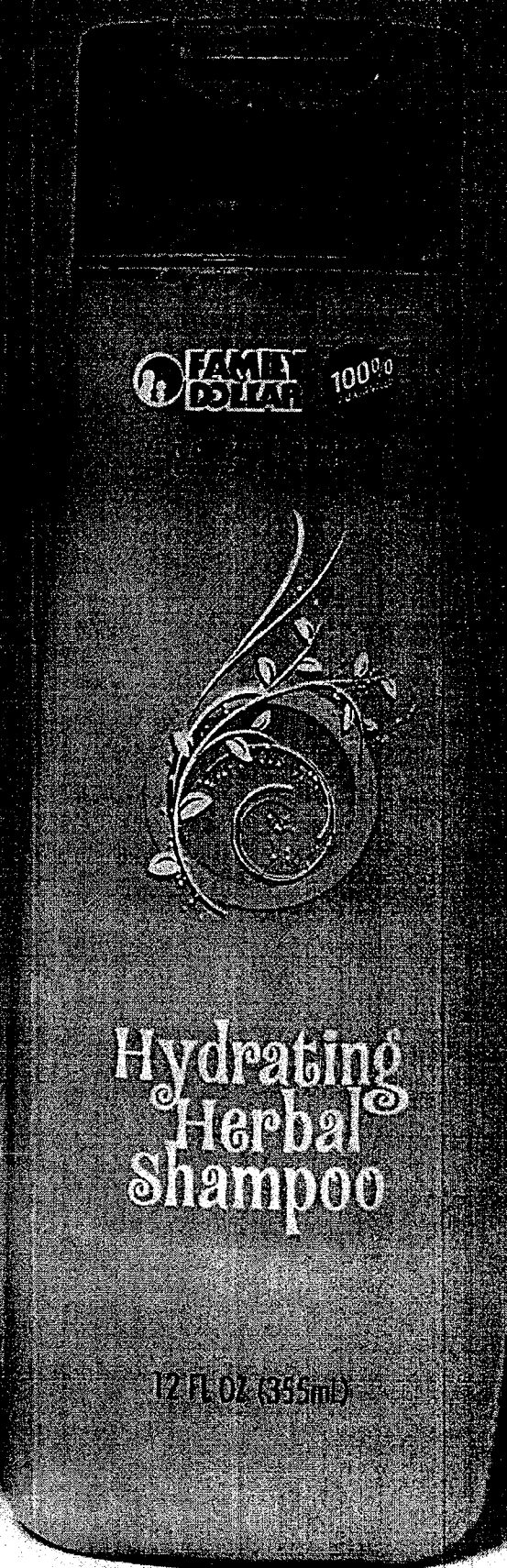
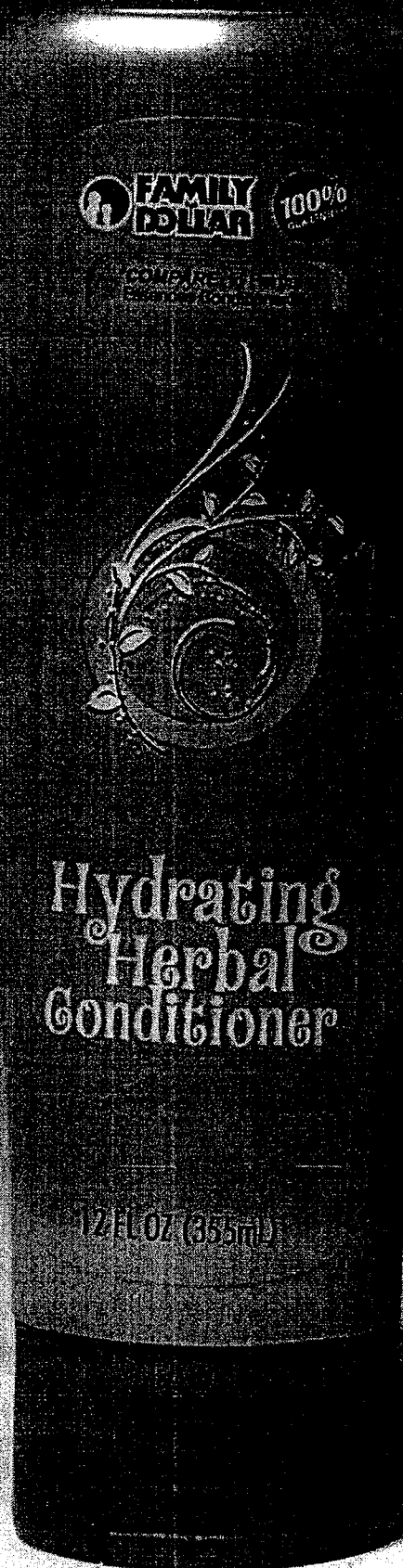
6. GK timely remitted to the USPTO all fees required to ensure issuance of the U.S. design patent on the Family Dollar Bottle and has requested the USPTO to expedite issuance of said patent.

Under penalties of perjury as provided by law pursuant to 28 U.S.C. § 1746, the undersigned certifies that the statements set forth in this instrument, which was executed on November 3, 2008 in Plain City, Ohio, are true and correct to the best of my knowledge.



Robert J. Kellerman

# EXHIBIT 1



# EXHIBIT 2



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

TICKET  
OCT - 11/10  
NOTICE OF ALLOWANCE AND FEE(S) DUE

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ANIM 10/03/2008

DINSMORE & SHOHL LLP  
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET  
SUITE 1300  
DAYTON, OH 45402-2023

OCT 6 2008

EXAMINER	
RADEMAKER, CAROL	
ART UNIT	PAPER NUMBER

OCT 07 2008  
DATE MAILED: 10/03/2008

DOCKETED

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/265,088	08/24/2006	Gene J. Kuzma	GKP 0033 DA	6537

TITLE OF INVENTION: BOTTLE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$430	\$0	\$0	\$430	01/05/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

23368

7590

10/03/2008

DINSMORE & SHOHL LLP  
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET  
SUITE 1300  
DAYTON, OH 45402-2023

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/265,088	08/24/2006	Gene J. Kuzma	GKP 0033 DA	6537

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nonprovisional	YES	\$430	\$0	\$0	\$430	01/05/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
RADEMAKER, CAROL	2912	D09-574000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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23368	7590	10/03/2008	EXAMINER	
DINSMORE & SHOHL LLP ONE DAYTON CENTRE, ONE SOUTH MAIN STREET SUITE 1300 DAYTON, OH 45402-2023			RADEMAKER, CAROL	
			ART UNIT	PAPER NUMBER
			2912	
			DATE MAILED: 10/03/2008	

**Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154 (b)**

Design patents have a term measured from the issue date of the patent and the term remains the same length regardless of the time that the application for the design patent was pending. Since the above-identified application is an application for a design patent, the patent is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

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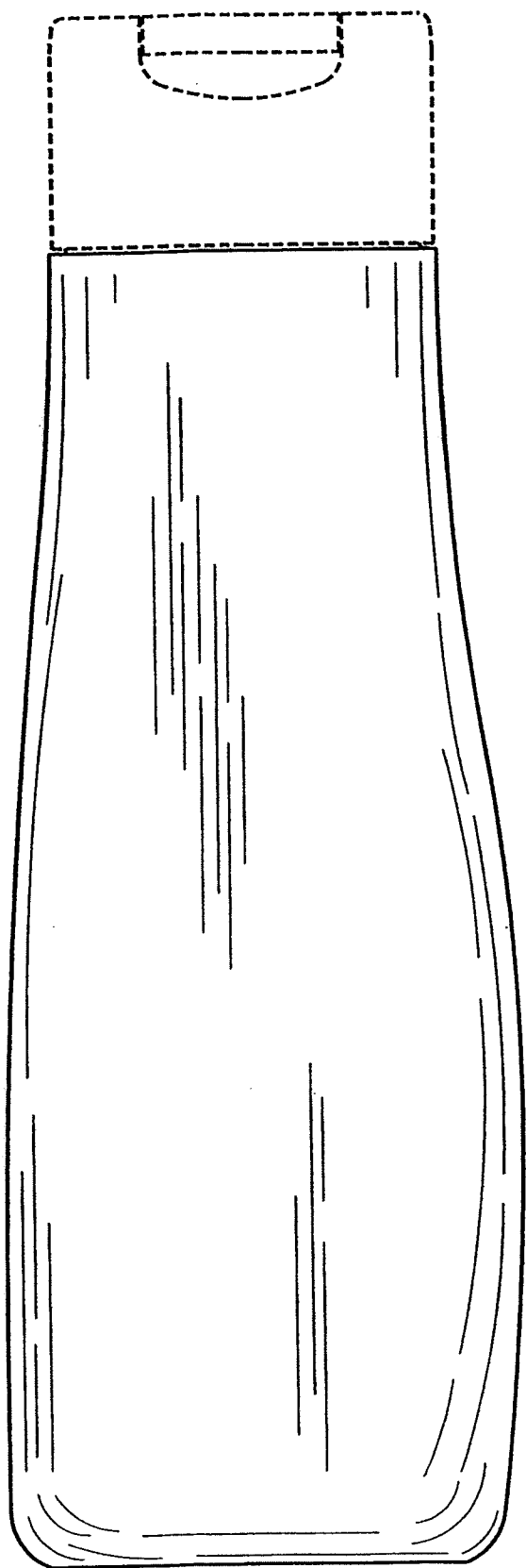


Fig. 1

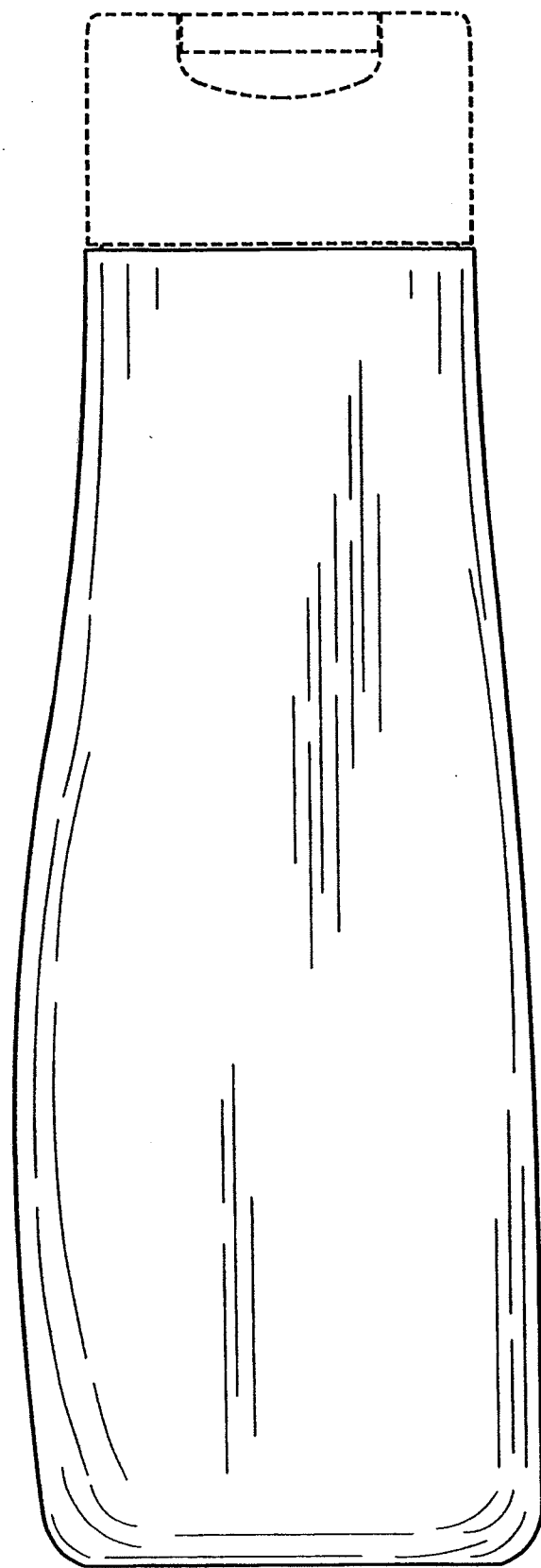


Fig. 2

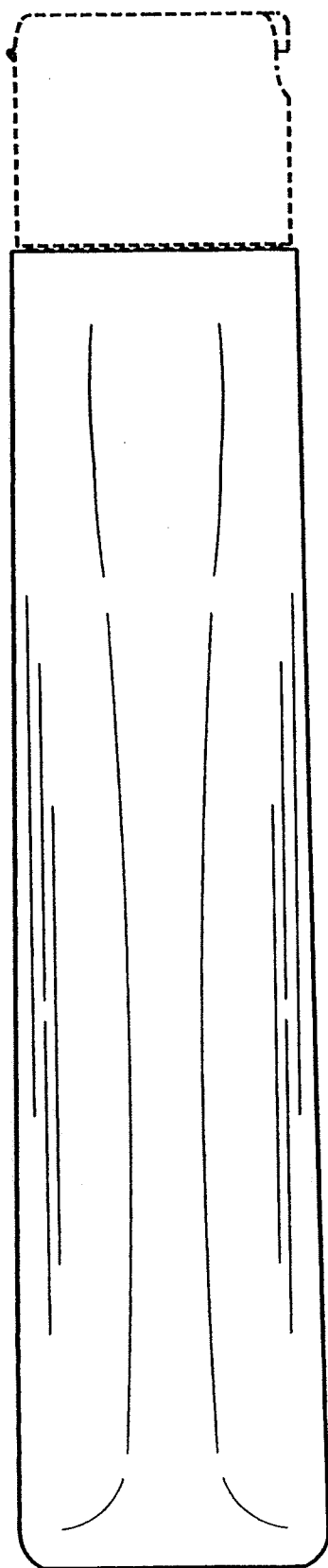


Fig. 3

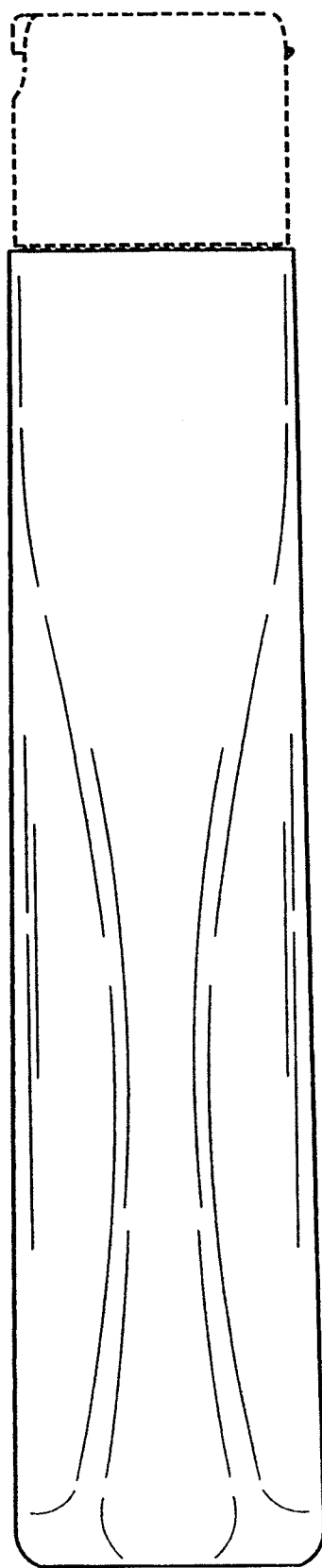


Fig. 4

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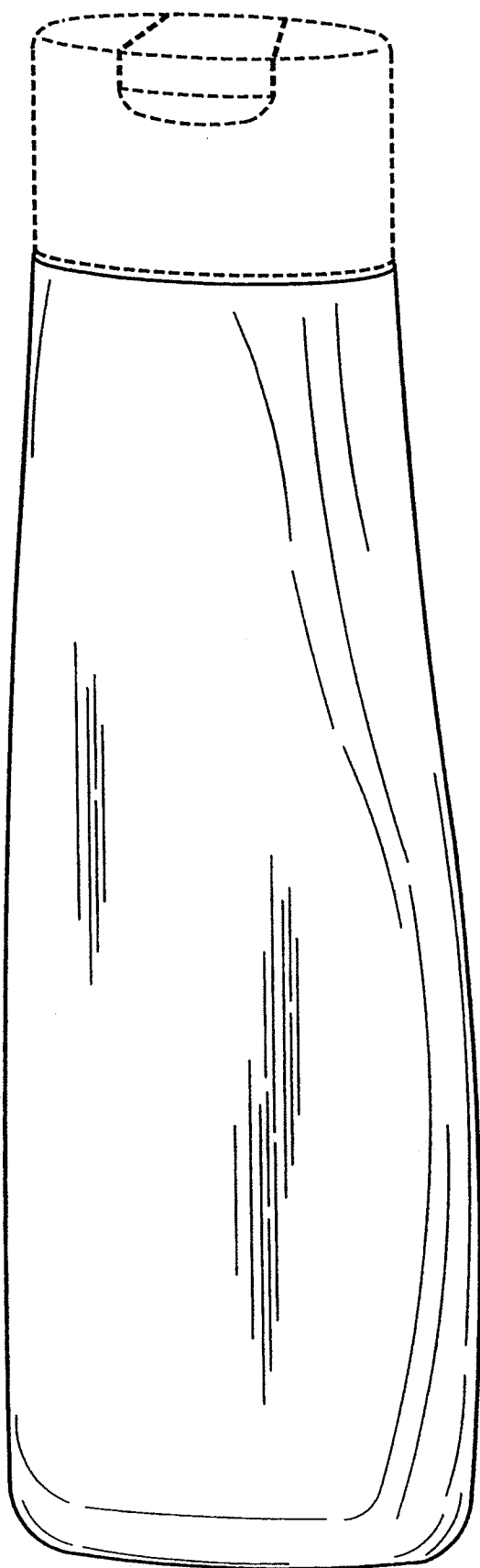


Fig. 5

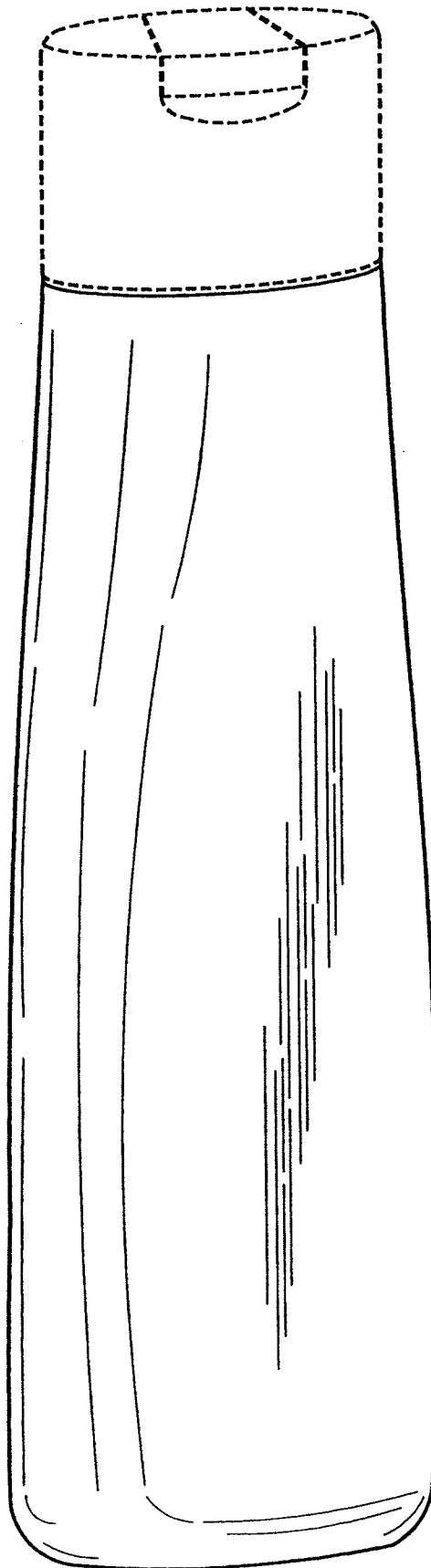


Fig. 6

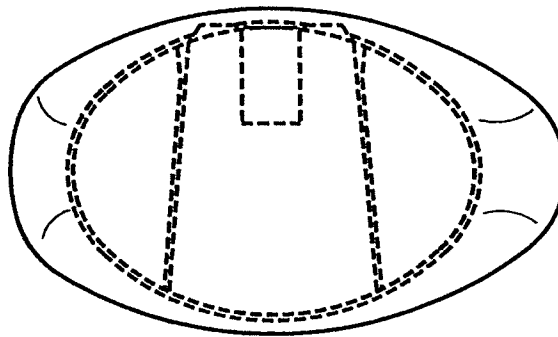


Fig. 7